

Assembly Bill No. 1412

CHAPTER 156

An act to add Article 10 (commencing with Section 9149.20) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, relating to public employees.

[Approved by Governor July 22, 1999. Filed with
Secretary of State July 23, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1412, Wildman. Public employees.

Under the Reporting of Improper Governmental Activities Act, a state employee is prohibited from using his or her authority or influence to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose an improper governmental activity to the State Auditor.

This bill would prohibit any state or local governmental employee from interfering with the right of any person to disclose an improper governmental activity to an investigating committee of the Legislature.

The people of the State of California do enact as follows:

SECTION 1. Article 10 (commencing with Section 9149.20) is added to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, to read:

Article 10. Whistleblower Protection Act

9149.20. This article shall be known and may be cited as the Whistleblower Protection Act.

9149.21. It is the intent of the Legislature that state employees and other persons should disclose, to the extent not expressly prohibited by law, improper governmental activities.

9149.22. For the purposes of this article, the following words have the following meanings:

(a) "Committee" means any investigating committee of the Legislature.

(b) "Employee" means any individual appointed by the Governor or employed or holding office in a state agency, as defined by Section 11000, including the California State University and the University of California, or any public entity as defined by Section 7260, or any agency of local government, as defined in subdivision (d) of Section 8 of Article XIII B of the California Constitution.

(c) “Improper governmental activity” means any activity by a governmental agency or by an employee that is undertaken in the performance of the employee’s official duties, whether or not that action is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, incompetency, or inefficiency.

(d) “Person” means any individual, corporation, trust, association, any state or local government, or any agency or instrumentality of any of the foregoing.

(e) “Use of official authority or influence” includes promising to confer, or conferring, any benefit; effecting, or threatening to effect, any reprisal; or taking, or directing others to take, or recommending, processing, or approving, any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

9149.23. (a) An employee may not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose to a legislative committee improper governmental activities.

(b) Any employee who violates subdivision (a) may be liable in an action for civil damages brought against the employee by the offended party.

(c) Nothing in this section shall be construed to authorize an individual to disclose information otherwise prohibited by or under law.

(d) Nothing in this section shall be construed to abrogate or limit any other theory of liability or any other remedy that is otherwise available at law.

